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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,846	11/24/2003	Susan A. Cook		2926

7590 04/04/2006
John J. Welch, Jr., Esq.
8 E. Center Street
Rutland, VT 05701

EXAMINER

REDDING, DAVID A

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/719,846	Applicant(s) COOK, SUSAN A.	
	Examiner David A. Redding	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/24/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 285 958 in view of UP 6,475,976 (Mahieu).

Applicant's claims are drafted using "open language" (comprising) and therefore do not preclude the wipe including additional ingredients.

The EP patent discloses a cleaning solution comprising peppermint, chamomile and water (rosewater) which is applied to wiping means in the form of a cloth (see claim 1 and col. 3, paragraph [0021, 0022]). The cloth with composition is considered to be capable of cleaning a horse bit as claimed.

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The reference is silent as to the specifics of the wiping cloth. The Mahieu patent discloses a cleaning wipe which comprises a 20 to 30 weight % non woven fabric (col.1, lines 54-56) having a range of 10% to 95% weight wood pulp fibers (col. 8, lines 35-40). It would have been obvious to one skilled in the art to use the cloth in the Mahieu patent for the cloth material in the EP patent in view of both cloths in both references being used for cleaning hard surfaces.

Claims 2 thru 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 285,958 in view of US patent 6,475,976 (Mahieu) and USP 5,866,555 (Bell et al.).

Applicant's claims are drafted using "open language" (comprising) and therefore do not preclude the wipe including additional ingredients.

The EP patent discloses a cleaning solution comprising peppermint, chamomile and water (rosewater) which is applied to wiping means in the form of a cloth (see claim 1 and col. 3, paragraph [0021, 0022]). The cloth with composition is considered to be capable of cleaning a horse bit as claimed.

The reference is silent as to the specifics of the wiping cloth. The Mahieu patent discloses a cleaning wipe which comprises a 20 to 30 weight % non woven fabric (col.1, lines 54-56) having a range of 10% to 95% weight wood pulp fibers (col. 8, lines 35-40). It would have been obvious to one skilled in the art to use the cloth in the Mahieu patent for the cloth material in the EP patent in view of both cloths in both references being used for cleaning hard surfaces.

The references are silent as composition of the peppermint extract prior to mixing with the water. The Bell et al. patent discloses that peppermint extract can consist of

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89% ethanol to extract composition (col.5, line 60). Accordingly, it would have been obvious that the peppermint extract used to make the composition in the EP patent be the composition claimed in view of Bell et al.

The references are silent as to the weight density of the fabric (claims 2 and 6) and the dimensions of the fabric (claims 2 and 5).

In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. Accordingly, the size of the wiping cloth is considered to be obvious in view of the EP reference.

Regarding the weight density, one skilled in the art knows that this characteristic effects the solution carrying capabilities of the cloth and that it would be obvious to optimize this characteristic to optimize the amount of cleaning solution carried by the cloth.

The claims specify a 1 to 20 and 1 to 30 ratio of peppermint extract to water. The EP reference discloses 15 grams per liter (paragraph [0018]). The difference is considered to be within routine experimentation and optimization of variables of one skilled in the art.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining cited references are considered to be generally related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Redding whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran-Piazza can be reached on 571-272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David A Redding
Primary Examiner
Art Unit 1744

DAR